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### *Legal Guide S-6*

## DISPLAY OF RETURN POLICY BY RETAIL SELLERS

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Most retail sellers allow a customer to return purchased merchandise within a reasonable time for full refund or credit, or for equal exchange. In fact, these refund policies are so common that customers have come to expect them when retail sellers do not post notice to the contrary.

However, some retail sellers do not post their return policy, but impose conditions on accepting returned merchandise or do not accept returns at all. Too frequently, customers who thought that they could return merchandise have been surprised to discover that the seller won't accept returns or has a limited return policy (e.g., packages must be unopened or a restocking fee must be paid).

Recognizing this, the legislature has enacted a law (Civil Code section 1723) which requires retail sellers to post their refund policy, if the policy does not meet certain common expectations. These common expectations are:

- The retail seller gives a full cash or credit refund, and equal exchange, or some combination of these, and
- The customer may return the merchandise for at least seven days following purchase, if it is returned with proof of purchase.

### *When Return Policy Must Be Displayed*

If a retail seller has a return policy which does not meet these common expectations, the seller must conspicuously display its refund policy as described in the next section. This conspicuous display requirement applies to any retail seller which sells goods to the public in this state whose return policy as to any of those goods does not meet these common expectations.

Thus, retail stores, other sellers of goods at retail, and mail order sellers which sell goods at retail in California, are among the categories of sellers that must comply with this conspicuous display requirement if their return policies do not meet the common expectations described above. If a retail seller sells some goods under a return policy that meets these common expectations, but sells other goods under another return policy, the seller must comply with the conspicuous display requirement as to the latter goods.

### *Location and Contents of Display*

If a retail seller is required to conspicuously display its return policy, the policy must be on signs posted at each cash register and sales counter or at each public entrance, or on tags attached to each item sold under the policy, or on the retail seller's order forms (if the retail seller uses order forms). This display must state the retail seller's policy, including at least all the following:

- Whether cash refund, store credit, or exchanges will be given for the full amount of the purchase price.
- The time period during which the customer may return the merchandise.
- The types of merchandise which are covered by the policy.
- Any other conditions which govern the refund, credit, or exchange of merchandise (such as requiring that the merchandise be returned with its original package and proof of purchase).

### ***Exceptions***

Certain merchandise either is not returnable by its nature or is not considered to be returnable. The requirements of Civil Code section 1723 do not apply to any of the following kinds of merchandise:

- Food, plants, flowers, and perishable goods.
- Goods marked "as is," "no returns accepted," "all sales final," or with similar language.
- Goods used or damaged after purchase.
- Customized goods received as ordered
- Goods not returned with their original package.
- Goods which cannot be resold due to health considerations

### ***Consumers' Remedies***

A retail seller which violates the requirements of Civil Code section 1723 is liable in a court action to a customer who has returned, or who has attempted to return, purchased merchandise by the thirtieth day after its purchase. The seller is liable to the customer for the amount of the purchase. The seller also may be liable to the customer under the Consumers Legal Remedies Act (Civil Code sections 1750-1784). The act provides additional remedies, such as actual damages and injunctive relief, for unfair or deceptive acts in the sale of goods to consumers.

**NOTICE:** We attempt to make our legal guides accurate as of the date of publication, but they are only guidelines and not definitive statements of the law.

Questions about the law's application to particular cases should be directed to a specialist.

Prepared by:

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